

ANDOVER CONSERVATION COMMISSION MEETING MINUTES

MARCH 21, 2013

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:47pm

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Alix Driscoll, Commissioner Jon Honea, Commissioner Floyd Greenwood and Commissioner Kevin Porter. Commissioner absent was Commissioner Frank Fink. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

14 Dundee Park

Staff Recommendation: Ratify Emergency Certification

Public Meeting on the Request for Determination of Applicability filed by Denis D'Amore to determine if the proposed excavation of soil, and replacement of existing sewer at 14 Dundee Park is subject to the Massachusetts Wetland Protection Act.

Agent Cleary presented this to the Commission. An Emergency Certification was issued due to proposed work having to commence under MCP and MA DEP prior to our rescheduled Public Hearing. There is possible soil tainted with oil, however the ground water is not affected. Ground water wells have already been established. There is an LSP on site and is in contact with Staff. Work needed to begin by March 21, 2013. This is an LRA, a limited removal action. Staff requested the Commission take no action on the RDA in the event that further work is necessary.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to ratify the Emergency Certification, it was seconded by Commissioner Driscoll and unanimously approved. Vice Chairman Walsh made a Motion to continue to April 16, 2013, it was seconded by Commissioner Driscoll and unanimously approved.

90 Beacon Street

Andover Country Club, Fairway #3 and #4

Present in Interest: Maureen Hanley, David Coates,

Continued Public Hearing on the Abbreviated Notice of Resource Area Delineation filed by C.A. Investment Trust under the Massachusetts Wetlands Protection Act to confirm the boundary of bordering vegetated wetland and riverfront area.

Mr. Douglas presented this to the Commission. This is a large delineation done under the WPA only. Any future filings under the By-Law will require a new review. All of the changes requested by the Commission have been completed and a revised plan has been submitted. The site walk has been completed.

Maureen Hanley presented the revised plan to the Commission. The resource areas could be flagged under the WPA without a by-law filing. Chairman Cooper informed Ms. Hanley that he expects a filing under the By-Law with the appropriate fees if and when it is appropriate to do so.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to close the public hearing and issue the ORAD with the stipulation that the delineation is under the WPA ONLY, it was seconded by Commissioner Porter and unanimously approved.

73 Lovejoy Road

Present in Interest: Robert Clarke, Jeffrey Bridge, Gary Crosser, Cheri Nolan, Stephanie Bard, Mike O'Malley, John Sewall, Mike Miller, Roger Brink, Jim Major, Dan MacRitchie and M. Malynowski

Staff Recommendation: Close the Public Hearing and issue OOC on April 2, 2013.

Continued Public Hearing on a Notice of Intent filed by Demoulas Super Markets, Inc. under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for proposed routine maintenance improvements to the pre-existing resources on a portion of the Indian Ridge Country Club at 73 Lovejoy Road.

Agent Cleary presented this to the Commission. This was continued from July 17, 2012 for purposes of a site visit and conducting both an environmental and hydrological peer review. This golf course is located in Fishbrook Overlay Protection District. The revised Notice of Intent better reflects the intent and purposed of the proposed work while simultaneously providing better protection to the interests under the Act and By-Law. The water quality is greatly improved as this is a tributary to Fishbrook. Waiver requests have been reduced to only two. The following are the items the Commission asked to be addressed by the peer reviewers:

- Impact to BVW, bank and LUW;
- Reduction of fertilizers and pesticides;
- Location of perforated pipes;
- Increase in water quality;
- Use of culverts;
- Cause of sedimentation;
- Soil testing;
- Groundwater elevations;
- Modifications to irrigation systems; and
- Changes to drainage system.

Bob Clarke presented the revised project to the Commission. All the water from the parking lot now runs into the wetland system, goes under the road, into the intermittent stream and into the Fishbrook Watershed. The Applicant proposes to increase the size of the pond, and the size of the buffer zones. The replication areas have increased significantly. This is a redevelopment project and there is no increase of impervious areas proposed. Waivers are requested for work within the

50 foot non-disturb buffer, which is previously disturbed and waiver for following the engineering scale according to the By-Law.

Jeff Bridge presented his environmental peer review to the Commission. The project has been significantly revised and now reflects the expanded scope of the redesigned, complete project, some course elements have been relocated and redesigned to keep them out of the wetlands and any work within the 50 foot non-disturb buffer is on previously disturbed areas. Tree clearing has been minimized within the buffer zone wherever practicable, detailed wetland mitigation plan and expanded pond design which provides a significant increase in resource area. Providing stormwater management to treat parking lot runoff as well an improvement in parking lot runoff from the site, which will be treated prior to reaching the downstream water supply.

Two waivers are requested. The course was constructed in 1959 which predates the By-Law. All work within the 50 non-disturb vegetated buffer zone is within previously disturbed areas which contain managed turf grass. Once the project is complete this area within the 50 foot non-disturb will either naturally revert back to crabgrass or be converted to resource area.

The revised project will protect the By-law and serve an overriding public interest and provide protection the public water supply with the stormwater management and water quality improvements.

Dan MacRitchie presented the hydrological peer review to the Commission. No impervious area being proposed, other than existing cart paths to be repaved. Stormwater treatment and water quality improvement were addressed with the runoff from the parking lot being treated prior to entering the tributary stream. The water level proposed for the larger expanded pond has the same mean high water and mean low level as it does now.

Mr. MacRitchie recommended a long term pollution prevention plan be submitted separately on a yearly basis. Operation and Maintenance plan post-construction for 2 stormwater treatment units. The pond cleaning and maintenance should be included in the Operation and Maintenance Plan. SWIP be in hand prior to work beginning.

Commissioner Porter inquired if redevelopment is defined as removing impervious area as part of the project. Dan MacRitchie included this information in his report provided to the Commission. There is no net increase in impervious areas.

Commissioner Driscoll thanked the peer reviewers for the extensive work which produced a much improved project.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to approve the waiver requests, it was seconded by Commissioner Greenwood and unanimously approved. Commissioner Honea made a Motion to close the Public Hearing and issue the OOC at the April 2, 2013 meeting, it was seconded by Commissioner Greenwood and unanimously approved.

83 Porter Road

Present in Interest: Bill MacLeod, Steve Pustell, John Pustell and Jeff Bridge.

Staff Recommendation: Continue and hire independent consultant to advise the Commission.

Public Hearing on a Notice of Intent filed by Porter Road Nominee Trust under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a single family dwelling with appurtenant driveway, lot grading and utilities.

Mr. Douglas presented this to the Commission. Staff recommends the hiring of an independent consultant to advise the Commission on this project as staff has a conflict of interest with the Applicants. Staff would like to hire Jeff Bridge to advise the Commission.

Bill MacLeod presented the plan for the project to the Commission. The lot is over 2 acres with a wetland area. The Applicants are asking for a waiver of the 50 foot setback for the no-build zone for the dwelling. In the alternative, the dwelling would be set back further on the lot which would require a wetland crossing which would cause more damage to the wetland.

Commissioner Porter suggested the garage be made smaller to be further away from the wetland. He would like a site visit as well as Commissioner Driscoll.

Jeff Bridge will confirm the resource boundaries without snow cover and then the Commission will do a site visit.

Jan Bollard, an abutter, inquired if the Pustell home was to be turn down or a new one to be built. She also stated that the stream is not intermittent, but flows all year long. They have had water problems in the past and are concerned this will increase the water problems.

The Applicant asked for a continuance to April 30, 2013 at 8:15am. The Commission agreed to a site visit on April 30, 2013 at 8:15am with Jeff Bridge.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to April 30, 2013, it was seconded by Commissioner Driscoll and unanimously approved.

Chairman Porter made a Motion to hire Jeff Bridge as a consultant for this project, it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

307R & 311 Lowell Street

Rolling Green

Present in Interest: Maureen Hanley

Staff Recommendation: Issue Order of Conditions.

Issuance of Order of Conditions.

This project is being done on property not owned by the Applicant, but on an easement. Deed language was removed from the “boiler plate” Order of Conditions as well as the requirement for Markers since this would impact property not owned by the Applicant. An original draft was sent to the Commission for review, however the draft was revised prior to the meeting.

Chairman Cooper and Commissioner Greenwood agreed that the Applicant should bear the burden of obtaining permission from the property owner to install the non-

disturb bounds (markers). The Applicant is responsible for obtaining permission to meet all the requirements of the project.

Maureen Hanley stated that the Applicant only has permission to work within the easement. The Applicant needs to get the corollary rights to comply with the Order from the Commission and if they do not get permission, they are not in compliance with our Order.

Staff changes to the Order of Conditions are as follows: non-disturb markers removed; protected area permanently protected with deed language removed; and Special Condition #9 “in perpetuity” was removed from first paragraph.

Commissioner Greenwood reiterated that the Applicant will have to get permission from the land owner to meet the Commission requirements.

Chairman Cooper inquired as to where this project stands with regard to the by-law. The filing was only under the WPA per Maureen Hanley. She also was uncertain if any filing will be made under the by-law.

The Commission needs to issue an Order of Conditions within the next 7 days.

Chairman Cooper stated the Commission was NOT acting under the By-Law because the Commission does not have an Application filed under the By-Law.

The By-Law is administered by the ZBA with a different standard for a 40B project.

Commissioner Porter stated in the original 40B project filing made reference to 2 separate projects for the driveway and the building. Even though the driveway was associated, it was not part of the original 40B filing process.

Maureen Hanley confirmed the filing was approved by the ZBA.

Chairman Cooper asked Staff to check with Town Counsel regarding the lack of rights in the adjoining land to install non-disturb markers and whose problem would this be. He also suggested the Commission approve drafts of the OOC and once Town Counsel has given his legal opinion, Staff to issue the OOC which coincides with his legal opinion.

Can we require usual markers and non-disturb zones? Staff to check with Town Counsel.

Commissioner Greenwood made a Motion to issue the original draft of the Order of Conditions, unless Town Counsel states that the presence of an easement allows the Applicant to by-pass the regulations, it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes for meeting of March 5, 2013.

Vice Chairman Walsh made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

DISCUSSION ITEMS THAT MAY REQUIRE A VOTE

Eagle Scout Project

Present in Interest: Ryan Trisman and Bob DeCelle

Ryan Trisman presented his Eagle Scout Project which consists of building a raised boardwalk on the Gundrum Property off Gundrum Road. Ryan presented his plans to the Commission. There will be a 68 foot boardwalk constructed over a muddy portion of the trail to make it more accessible for walkers and hikers. The boardwalk will be 9 inches high and 32 inches wide. All cutting will be done off site and then assembling at the site. Pressure treated wood will be used. Ryan asked for matching funds up to \$150 from Conservation if the funds are available.

Commissioner Greenwood made a Motion to approve the project, it was seconded by Commissioner Driscoll and unanimously approved.

278R High Plain Road

Vote to transfer Conservation Land Property at Town Meeting.

Commissioner Driscoll made a Motion to transfer the land shown as Parcel B of "Plan of Land, 278R High Plain Rd., Andover, MA 01810, Scale 1"=40', Prepared for Donald & Lesley Durant, by JM Associates, 325 Main Street, North Reading, MA 01864 dated Sept. 26, 2012" is no longer needed for conservation purposes and that the care, custody, control and management of said land be transferred to the Board of Selectmen for purposes of conveying said land on the condition that Parcel A as shown on said plan is conveyed to the Town with said Parcel A to be

in the care, custody and control of the Conservation Commission, it was seconded by Commissioner Porter and unanimously approved.

Overseer Meeting

Candidates were discussed for the Robert Pustell Award.

Commissioner Porter made a Motion to nominate Robert Dalton to accept the Robert Pustell Award, it was seconded by Commissioner Greenwood and unanimously approved.

MACC Certificate of Achievement

Commissioner Alix Driscoll completed MACC's Fundamentals for Conservation Commissioners training course.

Dropbox Program

Community Development & Planning Department will be using new Dropbox Program for delivery of packets to Commissions and Boards in the near future.

The next meeting will be held April 2, 2013 at 7:45pm.

The meeting was adjourned at 9:35pm by Motion of Vice Chairman Walsh, seconded by Commissioner Porter and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**